

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-0850V

Filed: May 21, 2019

UNPUBLISHED

MICHELLE DANIELS,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) and  
Tetanus, Diphtheria, and acellular  
Pertussis (Tdap) Vaccines; Guillain-  
Barre Syndrome (GBS)

*John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.*

*Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On June 14, 2018, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered Guillain-Barré Syndrome (GBS) caused by the influenza vaccination she received on October 4, 2017.<sup>3</sup> Petition at 1, ¶¶ 1, 32. She asserts that her injury meets the definition of a Table Injury, GBS after receipt of the influenza vaccination. *Id.* at ¶ 32; see 42 C.F.R. § 100.3(a)(XIV)(D). Petitioner further alleges that she received the vaccination in the United States, that she suffered the residual effects of her injury for more than six months, and that neither she nor any

<sup>1</sup> The undersigned intends to post this ruling on the United States Court of Federal Claims' website. **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755.

<sup>3</sup> Petitioner also received the tetanus, diphtheria, and acellular pertussis (“Tdap”) vaccination on October 4, 2017. Petition at ¶ 1; see Exhibit 2.

other party has filed a civil action or received compensation for her injury, alleged as vaccine caused. *Id.* at ¶¶ 1, 31, 33. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 20, 2019, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent believes "that petitioner has satisfied the criteria set forth in the recently revised Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAI"), which afford petitioner a presumption of causation if the onset of GBS occurs between three and forty-two days after a seasonal flu vaccination and there is no apparent alternative cause." *Id.* at 6 (citing 42 C.F.R. § 100.3 (a)(XIV)(D), (c)(15)).

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master